

# STARDUST

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January 29<sup>th</sup>, 2020

Vanessa A. Countryman, Secretary  
U.S. Securities and Exchange Commission  
100 F Street N.E.  
Washington D.C. 20549  
Submitted via [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

Re:

S7-23-19 Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8

S7-22-19 Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice

Dear Madam Secretary and SEC Commissioners,

As an investor and principal of Stardust, a large single family office based in New York and Houston, I write to you to express my strong opposition to the new rules proposed by the Securities and Exchange Commission (SEC) on November 5th, 2019. Stardust was set up with the belief that everyone is born with equal intrinsic value and that we must invest in a future where all can fulfill their potential. Our investment activities have sought to produce returns over the long term and have led us to be engaged shareholders on several fronts, including critical environmental, social, and governance issues which impact shareholder value. However, the SEC proposed changes referenced above will significantly limit the rights of shareholders to engage with corporations using the shareholder resolution process, especially discriminating against smaller shareholders. Undermining the voice of any investor and producing more management-friendly policies seems counterintuitive and very much at odds with the SEC's mission to "protect investors."<sup>1</sup>

Although Stardust is a large investor, we recognize that it is our collective responsibility to promote a more productive and just financial system which is inclusive of a diverse array of investors. Excluding smaller shareholders from the engagement process by increasing the ownership threshold required to file a resolution is anti-democratic and particularly punitive to a specific group of investors – women and people of color. Today in the United States, women and people of color have less wealth, and as such are less likely to meet this newly proposed threshold. Compared with the average single man, the average single woman's net worth is three

times smaller.<sup>2</sup> Similarly, the median black household has just ten percent of the wealth of the median white household, and while black people constitute thirteen percent of the US population, they hold less than three percent of its wealth.<sup>3</sup> The current ownership threshold has given more of these investors the opportunity to participate in the shareholder engagement process. As a public serving institution, the SEC should not enact a rule that will allow for these unspoken wealth gaps to keep quietly eating away at the futures of those it should protect. We believe that the proposed changes to the 14a-8 rule create clear barriers to the participation of some, perpetuating systemic inequalities and oppression.

In addition to ensuring that all investors – both institutional and Main Street – are heard, the shareholder proposal process benefits both issuers and investors by serving as an efficient and valuable tool for the advocacy of issues that are relevant to shareholder value, such as diversity on boards. As demonstrated by McKinsey in 2015, companies with diverse boards display better financial performance; despite this finding, boards' compositions have been historically slow to change.<sup>4</sup> Engaged shareholders like the ones in the Thirty Percent Coalition are largely responsible for the increased gender diversity we have seen on boards in the last two years. In 2019 alone, the Thirty Percent Coalition filed thirty shareholder proposals urging action and disclosure on board diversity. As their engagement led to mutually agreeable outcomes with companies – such as the adoption of both the Rooney Rule and more inclusive language in governance documents – twenty-seven of the resolutions were withdrawn.<sup>5</sup> In 2019, the percentage of women joining boards reached a new record high, with 45 percent of new Russell 3000 board seats filled by women (compared to only 12 percent in 2008).<sup>6</sup>

This welcome and overdue ongoing change in boards' composition has also been driven by effective changes in the voting guidelines put forward by proxy advisors. Since January 1, 2019, Glass Lewis has generally recommended voting against the nominating committee chair of a board that has no female members.<sup>7</sup> Similarly, ISS announced in late 2018 that it would generally issue recommendations against the election of the nominating committee chair on boards that still lack gender diversity (effective February 1, 2020).<sup>8</sup> We expect this trend to continue, as more institutional investors are beginning to require more than one token woman on the board. The undoubtedly positive effect that these changes are creating would likely not take place in a world where proxy advisory firms are required to allow companies to review and provide feedback on proxy voting advice, as suggested by the newly proposed amendments. The change sought by the SEC will affect the ability of institutional investors to get independent advice from proxy advisors and will provide an unfair advantage to company management to the detriment of shareholders.

On several levels, the SEC proposed changes to the current 14a-8 rule and the proxy voting process raise serious questions about the equity of the shareholder engagement process. As stated previously, these revisions are unnecessary and inconsistent with the SEC's core mission. Investors big and small deserve to be heard and it is the SEC's duty to ensure that companies are being held accountable to every shareholder, every stakeholder, and to the public at large. I strongly urge the SEC to thoroughly analyze how these proposed rule changes will negatively

affect shareholder value, which data proves is served well by the broader movement for equity and economic justice. Please reconsider these amendments in order to make the shareholder engagement process more inclusive, not less.

Sincerely,



Molly Gochman

Founder & President, Stardust

cc: Hon. Jay Clayton, Chairman

Hon. Robert J. Jackson, Jr., Commissioner

Hon. Allison Herren Lee, Commissioner

Hon. Hester M. Peirce, Commissioner

Hon. Elad L. Roisman, Commissioner

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<sup>1</sup> U.S. Securities and Exchange Commission (SEC), “What We Do”, June 10, 2013, accessed: <https://www.sec.gov/Article/whatwedo.html>.

<sup>2</sup> Investor’s Business Daily, “The Gender Wealth Gap is Real. Here’s How Women Can Start to Close It.”, July 16, 2018, accessed: <https://www.investors.com/news/gender-gap-investing-women-wall-street-stocks-female-investors/>

<sup>3</sup> The Samuel Dubois Cook Center on Social Equity at Duke University, “What We Get Wrong About Closing the Racial Wealth Gap”, April 2018, accessed: <https://socialequity.duke.edu/portfolio-item/what-we-get-wrong-about-closing-the-racial-wealth-gap/>

<sup>4</sup> McKinsey & Company, “Diversity Matters”, February 2, 2015, accessed: <https://www.mckinsey.com/~media/mckinsey/business%20functions/organization/our%20insights/why%20diversity%20matters/diversity%20matters.ashx>

<sup>5</sup> Thirty Percent Coalition, “Who We Are”, accessed: [www.30percentcoalition.org/who-we-are](http://www.30percentcoalition.org/who-we-are)

<sup>6</sup> Harvard Law School Forum on Corporate Governance, “U.S. Board Diversity Trends in 2019”, accessed: <https://corpgov.law.harvard.edu/2019/06/18/u-s-board-diversity-trends-in-2019/>

<sup>7</sup> Harvard Law School Forum on Corporate Governance, “Changes to the 2019 Glass Lewis Proxy Advice Guidelines”, accessed: <https://corpgov.law.harvard.edu/2018/11/06/changes-to-the-2019-glass-lewis-proxy-advice-guidelines/>

<sup>8</sup> Corporate Secretary, “ISS gives companies deadline to get women on boards”, December 6, 2018, accessed: <https://www.corporatesecretary.com/articles/boardroom/31434/iss-gives-companies-deadline-get-women-boards>